

### **REMARKS**

The pending Office Action addresses claims 1 and 3-19, rejecting all claims.

#### ***Claim Amendments***

Claim 1 is amended to include some of the limitations of claim 4, and in particular recites that a rod member has an aperture for passage of a trocar sleeve assembly therethrough. Claim 4 is amended to remove the limitations added to claim 1. Claim 3 is amended to correspond to amended claim 1. Claim 11 is amended to recite that a rod member has an elongated stem portion having an aperture therethrough. No new matter is added.

#### ***Double Patenting***

Claims 1, 6, 8-12, and 14-17 are rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 6, 8, and 17 of U.S. Patent No. 6,517,546 of Whittaker in view of U.S. Patent No. 5,350,380 of Goble. A terminal disclaimer is filed herewith, thereby obviating the basis for this rejection.

#### ***Claim Rejections under 35 U.S.C. § 102***

Claims 1, 3, 7-13, and 15-19 are rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,354,300 of Goble.

Claim 1 recites an adjustable drill guide assembly for forming a transverse bore through a bone tunnel of a bone. The assembly includes a guide frame including an arm portion and a base portion that extends transversely to the arm portion, and a rod member for connection to the base portion. The rod member extends transversely to the base portion and parallel to the arm portion when connected to the base portion, and has an elongated stem portion for extending into the bone tunnel of the bone and an aperture for passage of a trocar sleeve assembly therethrough. The assembly also includes a guide member configured for connection to the arm portion. The guide

member includes a channel extending therethrough at an angle normal to a longitudinal axis of the arm portion when the guide member is connected to the arm portion. The guide member is configured to be selectively moveable and lockable along a length of the arm portion. The arm portion includes indicia representing the relative height of the channel with respect to the bone tunnel when the elongated stem portion is inserted inside the bone tunnel.

Goble does not teach all the features of claim 1. Specifically, Goble does not disclose a rod member having an elongated stem portion for extending into the bone tunnel of the bone and having *an aperture* for passage of a trocar sleeve assembly therethrough. Rather, Goble teaches a drill guide having first and second arms (22, 24) coupled to a tunnel drill (12). The tunnel drill (12) is simply a drill used to form a tunnel in bone and does not include an aperture, or any type of opening, therethrough, as required by claim 1.

Accordingly, Goble does not teach all the features of claim 1, and claim 1 and claims 6 and 8-10, which depend therefrom, distinguish over Goble.

Independent claim 11 is similar to claim 1, except that claim 11 requires an elongated stem portion having an aperture therethrough. As stated above with regard to claim 1, Goble does not teach or suggest a elongate stem portion having an aperture. Thus, claim 11, as well as claims 12, 13, and 15-19 which depends therefrom, likewise distinguishes over Goble.

***Claim Rejections under 35 U.S.C. § 103***

Claim 14 is rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,350,380 of Goble.

As stated in the Response filed on December 27, 2005, Goble teaches away from the limitations of claim 14, which recites that a bore extends transversely through a bone tunnel at a distance between about 3 to 5 mm from the bone tunnel entrance. Rather, Goble teaches forming a bore at an optimal position chosen by a surgeon, such as “25mm from the end 14 of drill 12” (See

Column 7, line 65-Column 8, line 16). Nowhere does Goble teach positioning the bore near the entrance of the bone tunnel.

Further, claim 14 depends from claim 11, and thus includes all its features. Claim 11 recites a rod member with an elongated stem portion having an aperture therethrough. Goble does not teach or suggest a rod member having an aperture therethrough. Rather, as shown in FIG. 1 of Goble, a drill guide has first and second arms (22, 24) coupled to a tunnel drill (12). The tunnel drill (12) is simply a drill used to form a tunnel in bone and does not include an aperture therethrough, as required by claim 11.


Accordingly, claim 14 distinguishes over Goble.

***Conclusion***

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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